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9 **IN THE UNITED STATES DISTRICT COURT**
10 **IN AND FOR THE DISTRICT OF NEVADA**

11 MAUREEN McKISSICK &
12 DEANNA GESCHIEDER,

Case No.:

13 Plaintiffs,

14 vs.

COMPLAINT AND JURY DEMAND

15 CITY OF RENO and DOES I-X,

16 Defendants

17 _____/
18 COME NOW plaintiffs, through counsel, who hereby complain of defendant City of
19 Reno, and doe defendants, as follows:

20 Parties, Venue, Jurisdiction and Jury Demand

21 1. Plaintiffs are residents of northern Nevada, i.e., Reno, Nevada, and were employed
22 by defendant in northern Nevada, i.e., in the City of Reno, in an at-will capacity. Most, or all,
23 of the acts, statements and omissions alleged herein occurred in northern Nevada. Plaintiffs
24 hereby request a jury trial relative to all issues so triable. Plaintiffs have obtained Notices of
25 Right to Sue from the Equal Employment Opportunity Commission, i.e., plaintiffs have
26 exhausted administrative remedies in accord with federal law. This Complaint and Jury
27 Demand is timely filed in accord with the Notices of Right to Sue.

28 2. Defendant City of Reno is an established political entity, i.e., a City incorporated in
the State of Nevada. At all relevant times the City of Reno (hereinafter "City") employed in

1 excess of 15 persons on a full-time basis, at least twenty weeks per year. Defendant conducts
2 the normal business activities associated with running a metropolitan area. Defendant is
3 located in northern Nevada.

4 3. Doe defendants I-X are persons, corporations, partnerships, limited liability
5 companies, or other entities which are in whole or part responsible for plaintiffs' injuries or
6 damages. Plaintiffs believe various individuals associated with the City, both employed and
7 not employed, conspired to deprive them of their federally protected rights to a work
8 environment free of sexual/retaliatory harassment and/or retaliation. When plaintiffs discover
9 the identities of these doe defendant(s), and evidences supporting causes of action sounding in
10 conspiracy, they will seek leave of Court so as to amend this Complaint and Jury Demand, and
11 thereby hold those persons legally accountable.

12 4. This Court has venue over this action because all, or almost all, acts, statements and
13 omissions alleged herein occurred in Nevada; defendant is located in Nevada; and defendant
14 conducts business in Nevada. Furthermore, plaintiffs reside in Nevada. This Court has venue
15 pursuant to 42 U.S.C. 2000e-5(f)(3).

16 5. This Court has jurisdiction over this matter as plaintiffs' lawsuit arises under Title
17 VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e. Subject matter jurisdiction is invoked
18 under 28 U.S.C. 1343. Jurisdiction exists because plaintiffs are women who were sexually
19 harassed "because of sex", and who thereupon experienced retaliatory hostility and retaliation
20 because they opposed sexual harassment.
21

22 First Cause of Action

23 (Sexually Hostile Work Environment/Retaliatory Hostility)

24 6. Plaintiffs hereby incorporate the allegations of all other paragraphs. Plaintiff
25 McKissick is bringing this cause of action. Plaintiff McKissick was offended by the sexual and
26 retaliatory hostility experienced by plaintiff Gescheider, as well as other female employees.
27 Both plaintiffs were "at-will" employees, who could have been terminated by the City Manager
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1 for any reason which did not violate the law or public policy at any time. City Manager
2 Andrew Clinger periodically reminded plaintiffs, and other employees, of their at-will status,
3 i.e., he routinely implicitly threatened the precipitous termination of plaintiffs' employment.

4 7. Plaintiff McKissick was aware of the events and statements alleged by plaintiff
5 Gescheider contemporaneously, or shortly after those events and statements. That is, Ms.
6 McKissick was aware of the manner in which plaintiff Gescheider was targeted and harassed as
7 the result of having made a complaint of sexual harassment. Plaintiff McKissick was made
8 aware by plaintiff Gescheider. For instance, Mrs. Gescheider asked plaintiff McKissick to sit
9 between her and City Manager Clinger at meetings and informed her of the reason underlying
10 the request, to wit, to prevent Clinger from touching her. Plaintiffs were offended and
11 threatened by the sexualized environment the City allowed to develop under the management
12 of Clinger. Both plaintiffs were aware, to a certain degree, of Clinger's prior reputation, i.e.,
13 his reputation for sexual harassment and his propensity for retaliation. Plaintiffs' awareness
14 was enhanced in August, 2016, when former State Controller, Kim Wallin, provided testimony
15 to the Reno City Council as to Mr. Clinger's inappropriate sexual behavior while in the employ
16 of the State, including an allegation Clinger used his State office for sex. That environment, in
17 addition to and including the statements and events described in the other Causes of Action,
18 also included the following:

19
20 Clinger allowed the dissemination of an inappropriate and misogynistic video, to wit,
21 "The Hot Crazy Matrix" in approximately January, 2015, and thereafter referred to Assistant
22 City Manager Kate Thomas as his "unicorn". A unicorn, per The Hot Crazy Matrix, is a very
23 attractive woman, who is only a little crazy.

24 Clinger extended preferential treatment to Ms. Thomas, based on his perception of her
25 as a unicorn. This treatment included divesting her of work duties, and reassigning those duties
26 to plaintiff McKissick, commencing in approximately February, 2015, and continuing
27 thereafter. Clinger failed to inform Thomas why he divested Thomas of duties. Instead, upon
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1 information and belief, he lied to Thomas and thereby falsely informed Thomas Ms. McKissick
2 maneuvered so as to obtain those duties and the additional staff which accompanied those
3 duties. In addition to being saddled with an excessive workload, based on Clinger's preferential
4 treatment of a younger female, whom he regarded as very sexually attractive, Ms. McKissick
5 endured a protracted course of hostility emanating from Ms. Thomas. That preferential
6 treatment included unwarranted promotions and pay increases. Ms. Thomas exhibited hostility
7 to plaintiff McKissick as the result of the transfer of duties, and some staff, who were re-
8 assigned to Ms. McKissick's supervision, attendant to the transfer of duties.

9 Clinger openly engaged in sexually flirtatious and inappropriate conduct with Ms.
10 Thomas, including a sexual liaison on the fifteenth floor of the City building, which was heard,
11 in part, by a City employee in June, 2015. That employee was working after-hours and her
12 presence on the fifteenth floor was unknown to Clinger & Thomas.

13 Upon information and belief, Clinger lied as to why duties were transferred to Ms.
14 McKissick. Upon information and belief, Clinger told Ms. Thomas, and others, Ms.
15 McKissick had maneuvered so as to effect the re-assignment of duties. This caused, and/or
16 increased hostility which was directed at Ms. McKissick by Ms. Thomas.

17 Clinger fielded a number of complaints, made by plaintiff McKissick, re hostility
18 manifested and caused by Ms. Thomas, and which were caused by Clinger's sexual favoritism.
19 Clinger promised Ms. McKissick the hostility would be remedied, but he failed to implement
20 timely, adequate remedial action. Clinger also fielded information from Assistant City
21 Manager Bill Thomas, which corroborated the complaints of Ms. McKissick. Clinger
22 nonetheless failed to take action.

23 Plaintiffs lodged formal complaints of sexual harassment pursuant to being directed by
24 Mayor Hillary Schieve, Councilwoman Naomi Duerr and City Attorney Karl Hall to complain.
25 These three promised plaintiffs protection from retaliatory hostility and/or retaliation if they
26 complained. Mayor Schieve knew Andrew Clinger had a propensity for engaging in sexual
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1 harassment. Mayor Schieve described to a number of persons, the manner in which Clinger
2 sexually harassed her. It is within this context the City failed to properly investigate, for
3 instance, by narrowing the scope of the investigation conduct by Ms. Mercado. Plaintiffs
4 complained to the City's Human Resources Director Kelly Leerman, and they were assured by
5 Ms. Leerman their identities would remain confidential and the City would deal with their
6 complaints in a professional, thorough and serious manner. Plaintiff McKissick was assured
7 retaliation would be investigated and dealt with in a very serious manner. The City breached
8 these promises. The breach of these promises caused plaintiff McKissick to suffer emotional
9 distress, fear and apprehension. The breach of these promises constituted retaliatory hostility.
10 As a direct and proximate result of the stress induced by the City's failure to keep its word
11 plaintiff McKissick took leave pursuant to FMLA.

12 Acting City Manager Bill Thomas informed plaintiff McKissick, in approximately
13 September, 2016, he did not know what plaintiff would do if she returned to work, i.e., all of
14 her work assignments were given to others during the period of plaintiff's FMLA leave. Mr.
15 Thomas informed plaintiff McKissick the City could not protect her if she returned, i.e., the
16 City could not protect her from retaliatory hostility. That is, plaintiff McKissick apprehended
17 Acting City Manager Thomas was dissuading her from returning to work.

18 The City failed to timely and adequately investigate the hostility plaintiffs endured.
19 Upon information and belief, an adequate investigation of the hostility Ms. Thomas manifested
20 and orchestrated (Ms. Thomas convinced a number of employees to isolate Ms. McKissick) has
21 never been conducted. This failure is memorialized by the inadequate investigation conducted
22 by retired Judge Wall. For instance, this did not take into account the testimony and evidence
23 presented by former State Controller Kim Wallin on or about August 4, 2016.

24 On or about October 7, 2016 the City's Human Resources Director provided plaintiffs
25 with an agreement to the effect they would be placed on paid administrative leave pending the
26 conclusion of second investigation and implementation of remedial action. The parties entered
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1 in this agreement on or about October 14, 2016. On or about November 17, 2016, the City
2 breached this agreement by instructing plaintiffs to return to work, absent completion of
3 remedial action, and subsequent to an inadequate investigation. Adequate remedial action was
4 never undertaken.

5 8. The City's second investigation resulted in a finding plaintiff McKissick's complaint
6 of hostility, orchestrated by Assistant City Manager Kate Thomas, was meritorious.
7 Nonetheless, the City failed to timely and adequately remedy that hostility. Instead, the City
8 implicitly ratified the hostility. For example, Acting City Manager Bill Thomas warned
9 plaintiff McKissick the City could not protect her if she returned to work. On or about
10 November 17, 2016, plaintiff McKissick was constructively and wrongfully discharged from
11 the employ of the City of Reno.

12 9. As a direct and proximate result Ms. McKissick has suffered emotional distress, loss
13 of enjoyment of life, physical manifestations of stress, and apprehension and fear. It has been
14 necessary for her to incur costs and retain counsel to attempt to vindicate her right to a
15 workplace free of sexual /retaliatory hostility.
16

17 Second Cause of Action

18 (Sexually Hostile Work Environment/Retaliatory Hostility)

19 10. Plaintiff Gescheider is bringing this cause of action. Plaintiff hereby incorporates
20 the allegations of paragraphs 1 through 9, inclusive, as well as all other paragraphs herein. This
21 cause of action is based upon the retaliatory hostility plaintiff Gescheider endured after making
22 a complaint of sexual harassment. At all times herein mentioned defendant City of Reno was
23 possessed of a legal obligation to implement a prompt, fair and thorough investigation of any
24 and all sexual harassment complaints and to thereupon implement prompt and reasonable
25 remedial action, sufficient to address past harassment and deter future harassment. Retaliatory
26 hostility is a recognized form of sexual harassment, regardless whether the harassment is itself
27 intrinsically "sexual".
28

1 11. Plaintiffs made complaints of sexual harassment, subsequent to being directed by
2 the City of Reno to disclose any incidents of sexual harassment. Plaintiff Gescheider's
3 complaint was triggered by various statements and actions of former City Manager, Andrew
4 Clinger. One of the acts of sexual harassment, which triggered plaintiff's complaint, occurred
5 on or about May 13, 2016, at an establishment known as the Coffee Bar. Andrew Clinger, who
6 was sitting next to plaintiff, rubbed the top of plaintiff's thigh a number of times with his hand,
7 in a back and forth motion. This action was witnessed by City employee Robert Chisel.
8 Several other employees were in a position to see this action, although plaintiff is unaware of
9 whether those employees did actually see Clinger's action. Mr. Robert Chisel saw Clinger rub
10 plaintiff Gescheider's thigh, and also observed her reaction, i.e., Mr. Chisel apprehended
11 plaintiff reacted with fear and concern. Immediately after the meeting at the Coffee Bar,
12 plaintiff Gescheider and Mr. Chisel discussed Clinger's action in the parking lot of the Coffee
13 Bar. Mr. Chisel encouraged plaintiff to complain. Plaintiff, who was on the verge of crying,
14 was fearful of the consequences of complaining. Her fear was palpable and was witnessed by
15 Mr. Chisel. Plaintiff did, eventually, complain, pursuant to assurances offered by the City to
16 the effect there would be no retaliatory hostility or retaliation elicited by any such complaint.
17

18 12. City Manager Clinger engaged in other forms of sexual harassment. For instance,
19 after directing plaintiff to install the application "Telegram" on her mobile telephone, Clinger
20 commenced sending plaintiff sexual text messages. Clinger first directed the app "Slack" be
21 used, but then discovered the more effective Telegram app. The Telegram app is the same app
22 used by criminals and terrorists because it encrypts and destroys messages, and also renders the
23 recovery of those messages impossible. Clinger directed implementation of these apps for the
24 express purpose of preventing the public from learning of his activities, i.e., he harbored the
25 intent to subvert and defeat public records requests. The gross impropriety of Clinger's use,
26 and direction to use Telegram, is established by Nevada Revised Statute 239.320, i.e., Clinger
27 engaged in apparently felonious conduct, with the express intent of destroying public records.
28

1 Both plaintiffs objected to Clinger's intent to subvert the public records law. Plaintiff
2 Gescheider, shortly after she was directed to install Telegram, deleted that application from her
3 telephone in violation of Clinger's instruction.

4 13. City Manager Clinger implemented the use of the Telegram application subsequent
5 to a protracted course of illegal conduct. Prior to the use of the Slack application (used and
6 directed to be used by Clinger just before he commenced use of Telegram) and the Telegram
7 application, Clinger was in the habit of directing members of the City's Executive Staff to
8 destroy text messages Clinger sent to them, and which were sent by the members to Clinger.
9 Clinger knew, and/or should have known, his directions constituted felonies, i.e., violations of
10 Nevada Revised Statute 239.320.

11 14. Upon being presented with a copy of the *Nissen* Opinion, i.e., an Opinion issued by
12 the Supreme Court of the State of Washington in August of 2015, Clinger decided to destroy
13 City records, in violation of NRS 239.320, in a more efficient manner. That is, Clinger was
14 expressly informed, via obtaining the *Nissen* Opinion, and via discussion of that Opinion at an
15 Executive Staff meeting, of the fact the destruction of City records, in violation of NRS
16 239.320, was illegal, regardless whether such destruction occurred relative to a City-issued
17 telephone or a privately owned telephone. Clinger, instead of mending his ways per receipt of
18 this information, opted to commit felonies on a wholesale basis via directing his subordinates
19 to adopt first the Slack application, and then the Telegram application. The Supreme Court of
20 Washington, via *Nissen*, held ownership of a telephone is irrelevant to the question whether
21 substantive text messages, relating to government business, and stored on a telephone, are
22 discoverable. Once Clinger knew plaintiff Gescheider had followed his direction, and
23 installed Telegram, Clinger began sending sexual messages to Mrs. Gescheider. Clinger's
24 willingness to deliberately flout the law, on a routine and wholesale basis, is illustrated by (1)
25 his actual knowledge of the *Nissen* Opinion; and (2) his long term willingness to systematically
26 destroy thousands of government records. Upon information and belief the City is exposed to
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1 massive civil liability in many cases, both filed and unfiled, per the doctrine of spoilation of
2 evidence. Clinger knew, and should have known, of this exposure. Clinger's wilful
3 destruction of thousands of text messages constituted deliberate malfeasance, as did his open
4 violation of the City's sexual harassment policy/Title VII law. These instances of
5 malfeasance should have resulted in his immediate termination, ***without payment of severance***
6 ***benefits***. Instead, the City ignored Clinger's conduct, while praising him, and misallocated
7 over a quarter of a million of taxpayer dollars, which the City was no longer contractually
8 obligated to pay.

9
10 15. Plaintiff's complaint was directed, in material part, at Clinger's sexual text
11 messages, as facilitated by the forced use of the Telegram application. Plaintiff Gescheider's
12 complaint of sexual harassment constituted protected activity per Title 42 of the United States
13 Code.

14 16. After plaintiff Geschedier opposed sexual harassment by former City Manager
15 Clinger she was subject to retaliatory hostility. Retaliatory hostility is a recognized form of
16 sexual harassment. The course of retaliatory hostility plaintiff was subject to included, but was
17 not necessarily limited to, the following actions.

18 First, Councilwoman Jardon, while cognizant of plaintiff Gescheider's complaint of
19 sexual harassment, suggested to plaintiff the best way to resolve the situation was to tender her
20 resignation.

21 Second, the initiation of an inadequate investigation (conducted by attorney Alice
22 Campos Mercado, Esq. at the direction of the City Attorney) which was designed to be
23 inadequate, and whose inadequacy was assiduously maintained, notwithstanding the attempts
24 of plaintiffs, and at least one other employee, to cause the City to conduct a proper
25 investigation. Ms. Mercado was repeatedly provided with evidence of a course of sexual
26 harassment by Clinger. Ms. Mercado refused to investigate allegations of sexual harassment,
27 while stating such allegations were not within the scope of her investigation.
28

1 Third, the conduct of a second investigation, which was also inadequate, and
2 conducted so as to be inadequate. This investigation was rendered inadequate because, for
3 instance, the City failed to interview the women who complained of sexual harassment.
4 Pursuant to Rule 4.2 of Nevada's Rules of Professional Conduct (the Rules which govern the
5 conduct of attorneys), as interpreted by State Bar Counsel in this case, the plaintiffs were
6 entitled to refrain from all contact. Nonetheless, plaintiffs offered to facilitate the City's
7 second investigation. The City failed to cause these women to be interviewed because the City
8 insisted on the right to attempt to use the interviews against the complainants in potential
9 litigation. That is, the City determined the ability to potentially exploit the interviews in
10 litigation was more important than discharging the City's non-delegable duty to conduct a
11 thorough investigation. The investigation was also rendered inadequate by failure to properly
12 investigate Clinger's felonious conduct re destruction of City records, coupled with directing
13 substantial investigative efforts at the plaintiffs, based upon the theory plaintiffs engaged in a
14 conspiracy. Inquiry directed at the complainants was a direct and crystalline form of hostility.
15 Ideation of a conspiracy, allegedly indulged in by the complainants, was compounded by the
16 public release of both reports. The City also failed to fully investigate retaliatory hostility, as
17 complained of by the plaintiffs. In addition to knowledge acquired via the complaints of
18 plaintiffs, the City had independent knowledge of systemic retaliatory hostility directed at
19 plaintiffs, but nonetheless failed to properly investigate and/or implement proper remedial
20 action.
21

22 Fourth, City Attorney Karl Hall created an atmosphere which sanctioned hostility. For
23 instance, City Attorney Hall characterized the investigation of Clinger's activities as "likely a
24 witch hunt by disgruntled employees." See, November 21, Report, p.33. City Attorney Hall
25 provided advance notice of the identities of the complainants to City Manager Clinger, while
26 trivializing the complaints, and thereby inviting retaliatory hostility by Clinger, and the
27 orchestration of retaliatory hostility among other City employees against the complainants.
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1 For instance, City Attorney Hall is reported as remarking regarding the rubbing of plaintiff
2 Gescheider's thigh, "it's just a leg being touched." (See, p.26 of the November 21, 2016
3 Report, authored by retired Judge David Wall). City Attorney Hall went so far as to accuse the
4 plaintiffs of having engaged in a "witch hunt". City Attorney Hall sought to impede the
5 investigation of sexual harassment by insisting on a formal complaint; keeping the
6 investigation "in-house"; influencing the manner in which both investigations were conducted,
7 for example, by narrowing the scope and preventing the interviews of plaintiffs; breaching
8 confidentiality; encouraging Clinger to make hostile statements; City Attorney Hall failed to
9 timely and thoroughly inform members of the City Council of the complaints, the progress of
10 the investigations, the need for remedial action and other relevant aspects, as required by City
11 policies; trivializing Clinger's conduct; and inviting hostility towards plaintiffs by accusing
12 them of engaging in a conspiracy and a "witch hunt".

13 Fifth, Clinger's openly hostile statements, *and the toleration of those statements by*
14 *management level City employees, including members of the City Council.* Clinger is reported
15 to have made such remarks as "[the complainants] are evil", "they'll pay", and "payback's a
16 bitch" (see, p.26 of the November 21, 2016 Report) to at least four persons: Mayor Hillary
17 Schieve, Council member Naomi Duerr, City Attorney Karl Hall, and Human Resources
18 Director Kelly Leerman. Clinger also made statements such as "karma is a bitch". Clinger
19 openly made these statements, and similar statements, with vehemence, and with obvious
20 retaliatory animus, and was allowed to retain his position for a considerable period thereafter,
21 without any significant discipline in the interim. Clinger is reported, as memorialized in Judge
22 Wall's Report, to have openly ranted, at length, as to his intent to exact vengeance upon the
23 complainants. On or about July 30, 2016, Clinger publicly characterized the complainants as
24 liars. Clinger was employed as the City Manager when he did so. The City failed to take
25 timely, adequate remedial action, and instead, eventually gave Clinger and his attorney in
26 excess of a quarter of a million of taxpayer dollars.
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1 Sixth, Clinger, and others acting in concert with him, such as Assistant City Manager
2 Kate Thomas, openly manifested and orchestrated hostility towards the complainants, and were
3 allowed to do so without consequence. For instance, City employee William Dunne, a close
4 friend of Assistant City Manager Kate Thomas, approached plaintiff Gescheider and threatened
5 her and plaintiff McKissick in response to their complaints of sexual harassment. Among other
6 acts of hostility, Clinger was allowed, without contradiction by the City or discipline
7 implemented by the City, to make public statements which falsely asserted his innocence, and
8 which implicated the complainants.

9 Seventh, the burglary of plaintiff Gescheider's City office, and the theft of her file
10 regarding her complaint of sexual harassment, as well as documents regarding plaintiff
11 McKissick. This file included privileged materials, i.e., attorney work-product materials and
12 attorney-client communications regarding both plaintiffs and another complainant.
13 Notwithstanding the prompt report of the burglary/theft, the City forestalled from
14 implementing prompt and adequate remedial action, e.g., causing a police investigation to be
15 promptly conducted.

16 Eighth, the interference in what were supposed to be independent investigations by City
17 Attorney Hall. Upon information and belief, Hall interfered with the *Mercado* investigation by
18 establishing and maintaining strict parameters regarding the investigation, which attorney
19 Mercado refused to breach. Despite the fact attorney Mercado was repeatedly presented with
20 powerful evidence which inculpated Clinger relative to sexual harassment, she refused to
21 consider that evidence, while stating such evidence "is beyond the scope of my investigation."
22 Ms. Mercado, who is a respected and ethical attorney, was compelled to truncate her
23 investigation, i.e., she followed the directives issued by City Attorney Hall. City Attorney Hall
24 interfered in the second investigation by preventing the interviews of the complainants, i.e., by
25 insisting on the ability to use *unrecorded* investigatory interviews against the complainants. As
26 City Attorney Hall well knew, this method of proceeding would probably have led to a
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1 swearing contest between the complainants and a retired Judge regarding what was said during
2 interviews which could have gone as long as four or six hours, or even longer.

3 Ninth, the public release of both reports. The *Wall* report failed to discuss the
4 significance of Clinger's felonious destruction of records, just as the City basically ignored that
5 destruction. The *Mercado* report followed its apparent intended design, and the release of both
6 reports resulted in the widespread misapprehension (1) Clinger had been exonerated; and (2)
7 the complainants had filed false complaints, and engaged in a conspiracy.

8 Tenth, the payment to Clinger, and his attorney, of over a quarter of a million of
9 taxpayer dollars, along with statements of praise for Clinger, stated by various City Council
10 members. Upon information and belief, Clinger's contract with the City of Reno would have
11 allowed the City to forego from any payment to Clinger. In fact, the City Council had an
12 obligation to the citizens of Reno, to refuse any payment. Clinger breached his contract by
13 repeatedly indulging in malfeasance, *as he admitted during his discussions with Judge Wall*.
14 See, November 21, 2016 Report of Judge Wall, pp.49 & 53. That is, Clinger admitted to the
15 repeated, protracted and deliberate destruction of City records, in violation of Nevada Revised
16 Statute 239.320. Clinger engaged, as alleged herein, in acts and statements which violated the
17 City's sexual harassment policy. The City ignored Clinger's conduct. The City ignored the fact
18 Clinger's conduct constituted malfeasance, and negated any obligation to pay Clinger
19 severance. The City, after paying for a report which diverged from its purpose and publicly
20 vilified the complainants via allegations of conspiracy, paid Clinger hundreds of thousands of
21 taxpayer monies, while praising Clinger as he left the employ of the City. The City thereby
22 reinforced the erroneous impression (1) Clinger had been exonerated; and (2) the complainants
23 filed false complaints and engaged in a conspiracy. Payment to Clinger and his attorney was
24 the antithesis of the prompt and adequate remedial action, sufficient to address past harassment
25 and deter future harassment, as required by Title VII law. Clinger, shortly after leaving the
26 employ of the City, acquired a comparable position with the State. Accordingly, because the
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1 City implicitly ratified Clinger's conduct via a huge financial payment, *Clinger financially*
2 *profited by sexually harassing the plaintiffs*. Upon information and belief, Clinger profited
3 both by the payment itself, and by the false and biased reporting which the City orchestrated
4 and paid for, i.e., the reports of attorney Mercado and retired Judge Wall.

5 Eleventh, statements by Acting City Manager Bill Thomas to plaintiff Gescheider, to
6 the effect the City could not protect her from retaliatory hostility. The City, while knowing
7 retaliatory hostility was occurring, and would continue to occur absent strong remedial action,
8 failed to implement strong remedial action and instead expressly informed one of the victims
9 she would not be protected. Plaintiff Gescheider, shortly after being told this by Assistant City
10 Manager Bill Thomas, informed plaintiff McKissick of the refusal of the City to offer
11 protection.

12 Twelfth, the plaintiffs, as opposed to City Manager Clinger and/or Bill Dunne, were
13 placed on administrative leave.

14 Thirteenth, plaintiff Gescheider was aware of the hostility directed at plaintiff
15 McKissick, and plaintiff McKissick was aware of the hostility directed at plaintiff Gescheider.

16 17. As a direct and proximate result of this retaliatory hostility plaintiff Gescheider
17 suffered emotional distress, fear and anxiety, and loss of enjoyment of life. It has been
18 necessary for plaintiffs to incur costs and retain counsel to attempt to vindicate their federally
19 protected right to a workplace free of sexual/retaliatory hostility.
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21 18. The actionable work environment, which was the product of the retaliatory hostility
22 alleged herein compelled plaintiff to incur costs and retain counsel to attempt to vindicate her
23 federally protected right to a workplace free of sexual harassment/retaliatory hostility.
24 Additionally, plaintiff was compelled to resign, i.e., she was constructively and wrongfully
25 discharged.

26 Third Cause of Action

27 (Retaliation)

1 discharges which plaintiffs were subject to constitute acts of retaliation, i.e., retaliation in
2 response to plaintiffs' opposition to sexual harassment.

3 27. As a direct and proximate result, plaintiffs were injured as described herein.
4 Further, plaintiffs sustained, and continue to sustain, economic damages, including diminution
5 of retirement benefits.

6 28. Plaintiffs have been compelled to retain counsel and incur costs in order to attempt
7 to obtain to vindicate their right to be free of retaliation.

8 WHEREFORE, plaintiffs request the following relief:

- 9 1. For awards of compensatory damages;
10 2. For awards of economic damages;
11 3. For awards of punitive damages;
12 4. For sanctions per the spoliation of evidence, up to and including a directed verdict;
13 5. For an award of reasonable costs and attorney's fees;
14 6. For such other relief, including an injunction to compel defendant to adopt and
15 enforce a policy against sexual harassment and retaliation, and the appointment of a Court
16 Master to enforce such, as the Court or jury may deem just.
17

18 DATED this 31st day of July, 2017.
19

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